

8. Storm water drainage from Aquifer sites shall be collected into catch or settling basins before leaving the site.

D. Incorrectly Designated Zones

When the actual boundary of the Aquifer Conservation District is disputed, the Planning Board, at the complainant's expense and authorization, may engage a professional geologist or hydro geologist to determine the precise location of the Aquifer Conservation District boundaries in the properties affected. A report of his/her findings shall be submitted to the Planning Board and shall include but not be limited to the following:

1. A revised soils map of the area in question prepared by a soils scientist qualified in hydrologic studies along with a written report of his/her on-site field inspection and test boring data.
2. The Planning Board shall adjust the boundary of this district based on the evidence provided as set forth above. It shall reserve the right to withhold action on any plat pending the results of an on-site inspection by the Board or its appointed agent and shall act to approve or disapprove the plan within ninety (90) days of submission or such further time as deemed necessary, but not to exceed an additional ninety (90) days.

E. Administration

All existing industrial and commercial uses utilizing or storing hazardous or toxic materials which are located within the Aquifer Conservation District must be reviewed by the Planning Board within six (6) months of the enactment of this Ordinance and must be in compliance with the conditions of this ordinance by January 1, 1986.

F. Non-Conforming Uses

Non-conforming uses which exist at the time of adoption of this ordinance may continue unless that use is found by the Board of Selectmen in consultation with the Planning Board to be an imminent danger to the public health, safety, and welfare. In such cases, that use must be brought into conformance with this Ordinance in a timely fashion as determined by the Board of Selectmen or the Board of Health. 3-13-84

Section 4-14 _____

Section 4-15 Historic District (HD)

(Adopted 3-11-86; re-drafted 3-13-01)

Section I Historic Preservation

1.1 Purpose. The purpose of this ordinance is to promote the educational, cultural, economic and general welfare of the public for the protection, enhancement, perpetuation and preservation of the Historic District. It is hereby declared that it is a public purpose that the heritage of Amherst will be safeguarded by:

- A. Preserving districts in Amherst which reflect elements of the cultural, social, economic, political and architectural history;
- B. Conserving property values in such districts;
- C. Fostering civic beauty;
- D. Strengthening the local economy;
- E. Promoting the use of an historic district for the education, pleasure, and welfare of the citizens of Amherst.

1.2 Definitions. (3-13-01) Unless specifically defined below, words or phrases in this ordinance shall be interpreted to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application.

- a. **Abutter.** Any person whose property is located in the Amherst Village Historic District and adjoins or is directly across the street or stream from the land under consideration by the Commission. For purposes of receiving testimony only and not for purposes of notification, the term abutter shall include any person who is able to demonstrate that his property will be directly effected by the proposal under consideration.
- b. **Alteration.** Any act or process that changes one or more of the exterior architectural features of a structure, including, but not limited to, the erection, construction, reconstruction, or removal of any structure.
- c. **Alternate Member.** A member of the Commission who, at the direction of the chairperson, serves in the absence or disqualification of a regular member of the Commission.
- d. **Appearance.** The architectural character and general composition of the exterior of a structure, including, but not limited to, the kind, color, and texture of the building material and the type, design, and character of all windows, doors, light fixtures, signs, and appurtenant elements.
- e. **Appurtenance.** Property that is situated on, but subordinate to, the structure or place, such as a hot tub, swimming pool, antennae, satellite dish, etc.
- f. **Building.** Any structure that has a roof and is intended to shelter people, animals or chattel.
- g. **Building Permit (or Permit).** A certificate issued by the Zoning Administrator permitting the building, alteration, installation, repair, or change of buildings, fences (within the Historic District), land, or uses as regulated by the Zoning Ordinance. (3-11-03)

- h. **Certificate of Approval (or Certificate).** A certificate issued by the Historic District Commission indicating its approval of an application to alter, repair, construct, add onto, move, demolish, or change the use of a structure or a site within an Historic District.
- i. **Change of Use.** A change in how a structure or place is utilized or developed, whether for industrial, commercial, residential or agricultural purposes.
- j. **Character.** The aggregate of visible historic and architectural features and traits that together form the individual nature of an historic district.
- k. **Commission.** Commission shall mean the Historic District Commission of the Town of Amherst, New Hampshire.
- l. **Construction.** The act of adding an addition to an existing structure or the erection of a new principal accessory or structure on a lot or property.
- m. **Demolition.** Any act or process that destroys in part or in whole a landmark or structure.
- n. **Designation.** Act of identifying historic structures and districts subject to regulation in historic preservation ordinances or other preservation laws.
- o. **Design Guidelines (or Guidelines).** Standards of appropriate design and activity developed by the Commission which offers property owners guidance in preserving the historic and architectural character of a structure, setting, or place, and which standards shall include the *Secretary of the Interior's Standards for Rehabilitation*. (See *Regulations*.)
- p. **Ex Officio Member.** Any member of the Commission who holds office by virtue of an official position and who shall exercise all the powers of a regular member of the Commission.
- q. **Elevation.** The orthographic projection of an object or structure on a vertical picture plane parallel to one of its sides, and usually drawn to scale.
- r. **Historic District.** An area designated by ordinance of the Town of Amherst and which contains within definable geographic boundaries a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development.
- s. **Historic Property (or Historic Resource).** Any prehistoric or historic site, place, building, structure, or object that is deemed by the Commission to have historic, cultural, social, economic, political, or architectural significance.
- t. **Maintenance.** Ordinary maintenance and repair of any architectural feature that does not involve removal or a change in design, dimensions, materials or outer appearance of such feature.

- u. **Moving.** Any relocation or removal of a structure on its site or to another site.
- v. **National Register of Historic Places (or National Register).** Official inventory of "districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering and culture."
- w. **Orthographic Projection.** A method of projection in which a three-dimensional object is represented by projecting lines perpendicular to a picture plane.
- x. **Place.** An open space of land within the historic district.
- y. **Preservation.** The act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic structure, place, or feature.
- z. **Reconstruction.** The act or process of reproducing by new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purposes of replicating its appearance at a specific period of time and in its historic location.
- aa. **Regular Member.** A member of the Commission who has full voting power.
- bb. **Regulations.** Local design guidelines and standards of review promulgated by the Commission that interpret and implement statutory requirements and are in conformance with the Historic District Zoning Overlay.
- cc. **Rehabilitation.** The process of returning property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.
- dd. **Repair.** Any change that is not construction, addition, demolition, moving, or alteration.
- ee. **Restoration.** The act or process of accurately recovering the form, features, and character of a property and its setting as it appeared at a particular period of time by means of removal of features from other periods in its history and reconstruction of missing features from the restoration period.
- ff. **Rules of Procedure.** A set of rules adopted by the Commission pursuant to RSA 676 concerning the method of conducting the Commission's business.
- gg. **Scale.** A certain proportionate size, extent, or degree, usually judged in relation to some standard or point of reference.
- hh. **Street.** Relates to and includes street, avenue, boulevard, road, lane, alley, viaduct, highway, freeway and other ways.

- ii. **Structure.** Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but not limited to: buildings, fences, stone walls, gazebos, signs, backstops for tennis courts and ballparks, antennae, above ground pools and hot tubs, air conditioning units, propane tanks, playground equipment, etc.
- jj. **Texture.** The visual and tactile quality of a surface, apart from its color or form.
- kk. **Zoning Ordinance.** The laws of the Town of Amherst regulating the building, alteration, installation, repair, or change of buildings, land, or uses within the borders of the entire town.

Section II Historic District

2.1 Amherst Village Historic District. Pursuant to RSA Chapter 674:46, there is hereby established an historic district known as the Amherst Village Historic District, the boundaries of which are delineated on the Zoning Map on file with the Zoning Administrator.

2.2 Historic Significance. The Amherst Village Historic District is hereby recognized as an area of unique character, and architectural nature which can contribute significantly to the attractiveness and vitality of Amherst. It is further recognized that the character and nature of the area depends on the unity of design of the complex in which each building contributes creating a value greater than the sum of the individual contributions. The character and value of the area as the county seat and center of government of Hillsborough County from 1771 to 1879, the continuity of rich architectural expression, quality and integrity in closely related styles, materials, scale and detail in individual buildings and throughout the area and the opportunities that the area offers to maintain its historical heritage. The opportunities that the area offers are recognized as including retention of the architectural and historic values of the area. This ordinance is intended to provide for regulations of activities that would alter the exterior appearance of existing and proposed structures and for activities that would alter the use and appearance of the exterior spaces adjoining these buildings.

2.3 Criteria for designation of local historic districts. Criteria for the designation of local historic districts shall be the same as the National Register criteria as set forth in 36 CFR 60 ["Code of Federal Regulations," Chapter 36, Part 60 published in the *Federal Register*]. 3-13-01

2.4 Procedures for designation of local historic districts. An historic district shall be considered to be superimposed over the existing zoning districts and the rules and regulations applicable to an historic district shall be in addition to those applicable to the zoning districts which have been established for the area and as they may from time to time be amended. Procedures for the designation of local historic districts shall be in conformance with RSA 674:46 and other applicable statutory requirements.

Section III Historic District Commission

In order to carry out the purpose of this ordinance, a Historic District Commission known as the Amherst Historic District Commission is hereby established pursuant to RSA Chapter 673 which Historic District Commission is the successor to, and a continuation of the Historic District Commission established at the Annual Meeting in March 1970.

3.1 Membership.

a. The Commission shall consist of not fewer than five nor more than seven regular members, one of whom shall be an *ex officio* member of the Board of Selectmen and one of whom may be an *ex officio* member of the Planning Board. Not more than five alternate members may be appointed. *Ex officio* members from the Planning Board and the Board of Selectmen shall be appointed by their respective boards. All other regular and alternate members shall be appointed by the Board of Selectmen. 3-13-01

b. The qualifications and terms of Commission members, the organization, election and terms of its officers, and the scheduling of meetings shall be in accordance with the provisions of RSA Chapter 673 and any rules of procedure of the Commission not inconsistent with the State enabling statutes. At a minimum, in determining each member's qualifications, the Board of Selectmen shall take into consideration the appointee's demonstrated interest and ability to understand, appreciate and promote the purposes of the Commission. 3-13-01

3.2 Powers and Duties.

a. The Commission shall have all the powers and duties vested in the Historic District Commissions under RSA Chapter 674 and 675.

b. The Commission shall adopt rules of procedure (to prescribe the method of conducting its business) and regulations (to provide design guidelines and standards of review) consistent with this ordinance and RSA Chapters 673, 674 and 676.

c. The Commission shall seek advice from such professional, educational, cultural, and other groups of persons that may be deemed necessary in the determination of a reasonable decision. The Commission shall have the power to engage such technical assistance and consultants as may be deemed necessary to carry out the purposes of this ordinance.

d. The Commission shall have the power to accept and use gifts, grants and contributions in the exercise of its function.

e. The Commission may conduct surveys of the buildings for the purposes of determining those of historic and/or architectural significance and pertinent facts about them, formulate recommendations concerning the preparation of maps, brochures and historic markers for selected historic and/or architectural sites and buildings, cooperate with and advise the governing body, the Planning Board and other municipal agencies involving historic and/or architectural sites and buildings; advise owners of the buildings of the problems of preservation and restoration.

SECTION IV Certificate of Approval required

4.1 Certificates of Approval.

Except as provided herein, it shall be unlawful for any owner or person (including without limitation any municipal or governmental entity) to alter, construct, repair, move, demolish, or change the use of any structure or place located within the Historic District without applying for and receiving from the Commission a Certificate of Approval for such activity. Activities which require Certificates of Approval are intended to include, but not limited to, such activities as changing the architectural detail of exterior walls, replacement or modification of windows, ~~or~~ doors or siding, installation or removal of porches or fire escapes, roofing or chimney modification and installation of antennae or other appurtenances on or near the building exterior or similar activities for which a building or zoning permit are also intended to include, but not be limited to, such activities with regard to the balance of the site as regrading, paving, repaving, removal of mature trees, installation or removal of fences, retaining walls, signage, on-site lighting, commercial style trash receptacles, telecommunication towers, and similar activities but are not intended to include or prevent ordinary maintenance, repair or grounds keeping activities.

4.2 Certificate of Approval Application Procedure.

For purposes of Administration, the Certificate of Approval application procedure involving a structure or place in an Historic District may be combined with building permits which may be required under the Zoning Ordinance and/or Building Code. Materials required as part of a Certificate of Approval application include materials necessary for such building permits as may be required under the Zoning Ordinance and/or Building Code, plus such renderings, elevations, photographs or other materials as the Historic District Commission may specify to the Zoning Administrator as being necessary for their review and consideration.

4.3 Review by Historic District Commission

Prior to the issuance of a building permit for any exterior work or changes of use with respect to any property situated in an Historic District, the owner shall submit a Certificate of Approval application to the Historic District Commission for consideration. The Zoning Administrator may issue the building permit only following approval of that application by the Historic District Commission or as provided in RSA Chapter 676:8 and 676:9. In any case in which the Zoning Administrator is unclear as to the applicability of this ordinance to a particular case, he or she may consult with the Commission for an interpretation of the requirements of the Commission. Although the provisions of this section are not intended to impede the Zoning Administrator in ordering the correction of unsafe conditions of an emergency nature, he or she shall make every effort to coordinate his or her actions with the interests of the Commission by advising it of any such orders or actions and by involving the Commission in the review of building permits for corrective measures to the extent feasible and practical.

4.4 Personal Wireless Service Facilities.

Applications to erect personal wireless service facilities in an historic district shall be reviewed by the Commission pursuant to its own design guidelines and standards of review as well as to Article III, Section 3-16, Paragraph 7.5 of the Zoning Ordinance ("Personal Wireless Service Facilities: Historic Buildings and Districts"). 3-13-01

SECTION V Interpretation

Nothing in this ordinance shall be construed to prevent ordinary maintenance or repair of any structure or place within any Historic District nor to prevent the construction, alteration, repair, moving or demolition of any structure under a building permit issued by the Zoning Administrator, or any duly delegated authority, prior to the establishment of such district.

SECTION VI Matters to be considered in Passing Upon Appropriateness of Erection, Reconstruction or Restoration of Structures

The Historic District Commission or Board of Adjustment, on appeal, shall only consider exterior arrangement or features. The Historic District Commission or Board of Adjustment, on appeal, shall consider the following criteria in passing upon an application for a Certificate of Approval. For purposes of this section, *The Secretary of the Interior's Standards for Rehabilitation* are incorporated herein. 3-13-01

6.1 The special character of the area.

6.2 The historical and/or architectural value of the building/s, structure/s and its setting, and also as it relates to its setting and to the welfare of the community.

6.3 The compatibility of exterior design, arrangement, texture and materials proposed to be used in relationship to the existing building or structure and its setting or if new construction, to the surrounding area.

6.4 The general size and scale of new construction in relation to the existing surroundings including consideration of such factors as the building's overall height, width, street front, number of stories, type of roofs, facade, openings (windows and doors), and architectural details.

6.5 The economic activity of the building and the needs of that activity as it relates to the welfare of the community.

6.6 EXCEPTIONS: The Zoning Administrator is not required to forward the following applications to the Historic District Commission for their review, provided the proposed project complies with the stipulations specified:

- a. Ordinary maintenance and repair of any exterior architectural feature which does not involve a change in design, material, or outer appearance thereof; including but not limited to maintenance and repair of firewalls, roofs, chimneys and temporary removal of shutters.
- b. Storm doors and storm windows providing that the original architectural features are not removed or destroyed.
- c. Painting or repainting of a building/s or structure/s in any color.

Section VII Enforcement

This ordinance shall be enforced in accordance with the provisions of Article VI of the Zoning Ordinance, and violators shall be subject to the penalty provisions contained therein.

Section VIII Remedies

In the case of any violation of this ordinance, or regulations adopted hereunder, the Commission, in addition to other remedies may institute any appropriate action or proceedings to prevent, restrain, correct or abate such violation.

Section IX Appeal

Any person aggrieved by a decision of the Historic District Commission shall have the right to appeal concerning such decision to the Zoning Board of Adjustment. Upon appeal, the Zoning Board of Adjustment shall review the decision of the Historic District Commission to determine whether the decision conforms to the provisions under this ordinance and the rules of procedure and regulations adopted thereunder. 3-13-01

Section X Validity

If any section, subsection, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section XI Effective Date

This ordinance shall take effect upon adoption. 3-11-86

Section 4-16 _____

Section 4-17 _____

ARTICLE V

SPECIAL EXCEPTIONS

Section 5-1 General